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OFFICE OF PETITIONS

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HOUSTON, TX 77042

In re Application of
Theodore C. Goldstein, et al.
Application No. 10/807,833
Filed: March 24, 2004
Attorney Docket No. 2095.001000/P3125US1

ON PETITION

This is a decision in response to the petition, filed February 6, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 16, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 17, 2008. A Notice of Abandonment was mailed on December 9, 2008. On February 9, 2009, the present petition was filed.

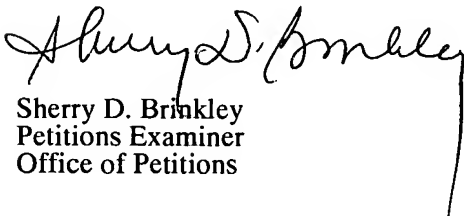
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,110 extension of time fee submitted with the petition on February 6, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and subject to refund.

Any request for refund must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 2191 for consideration of the amendment filed February 6, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions